

REMARKS

I. Introduction

Applicants have reviewed the detailed Office Action mailed 6/16/03 (paper no. 21). Claims 1, 10, 17 and 19 are currently pending. Applicants have amended claim 1. No claims have been cancelled. Applicants request reconsideration of the pending claims in view of the above amendments and the following remarks.

Entry of this Amendment is proper under 37 CFR §1.116 because this Amendment: (a) places the application in condition for allowance (for the reasons discussed herein); (b) does not raise any new issue requiring further search and/or consideration because the amendments amplify issues previously discussed throughout prosecution; and (c) places the application in better form for appeal, should appeal be necessary. This Amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of this Amendment is thus respectfully requested.

II. Rejection under 35 U.S.C. § 102(b)

The Examiner rejected claims 1, 10, 17 18, and 19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,027,182 to Nakanishi et al ("the '182 reference"). For at least the following reasons, this rejection is respectfully traversed.

First, nowhere does the '182 reference teach or suggest diminishing the amount of excess elevation by functionally correlating the wheel brake pressure with the monitored master cylinder pressure throughout the duration of the third mode of operation. In contrast to the claimed invention, the '182 reference teaches maintaining the assist pressure (Pa) constant throughout a majority of the labeled "3rd mode" (see Examiner modified figure 3 provided in Office Action dated 6/16/03) and terminating the assist pressure (Pa) only when the brake assist end condition is established (*see, e.g.*, col. 13, lines 13-21).

Second, even if the assist pressure (Pa) in the '182 reference is "diminished," as claimed, it is not diminished by functionally correlating the wheel brake pressure with the monitored master cylinder pressure. Rather, the assist pressure (Pa) in the '182 reference is terminated by

opening the master cut valve 28, closing the inlet valve 78 and turning off the pump 76. (*See, e.g., col. 13, line 65 through col. 14, line 7*). In other words, the assist pressure (Pa) in the '182 reference is abruptly terminated without any controlled diminution.

Third, regarding figure 3 of the '182 reference, the portion labeled "3rd mode" by the Examiner is not a third mode of operation provided for the transition from the second mode into the first mode, as recited in amended claim 1. Rather, the portion labeled "3rd mode" is actually the brake assist control mode (*See, e.g., col. 13, lines 29-50*). As shown in the Examiner-modified figure 3, the assist pressure (Pa) is set to a constant value by which a predetermined assist deceleration (Ga) is achieved. The deceleration of the vehicle can be increased or decreased according to the driver's intention while maintaining a constant assist deceleration (Ga) when the brake assist control is being performed. (*See, e.g., col. 13, lines 51-64 and FIG. 3*). It is only after determination of the brake assist end condition (step 90) that a transition from the second mode into the first mode takes place, and even then the assist pressure (Pa) is not diminished by functionally correlating the wheel brake pressure with the monitored master cylinder pressure.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. According, the Examiner is respectfully requested to pass this application to issue.

It is believed that any additional fees due with respect to this paper have already been identified. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge account number 18-0013 in the name of Rader, Fishman and Grauer PLLC.

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Respectfully submitted,

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